



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Mike Foley
State Auditor

Mike.Foley@nebraska.gov

PO Box 98917

State Capitol, Suite 2303

Lincoln, Nebraska 68509

402-471-2111, FAX 402-471-3301

auditors.nebraska.gov

February 20, 2024

Casey Strauch, Chairperson
Village of Salem
PO Box 297
Falls City, NE 68355

Dear Chairperson Strauch:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Salem (Village) for the fiscal year ending 2023. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Supp. 2023), the preliminary examination necessary to determine whether the audit waiver should be allowed or further audit work would be required, the APA noted certain internal control or compliance matters, or other operational issues, within the Village.

The following information is intended to improve internal controls or result in other operational efficiencies.

Comments and Recommendations

1. Payroll Tax Withholding Issues

During the fiscal year ended September 30, 2023, taxes were not withheld from wages paid to the Village Clerk and remitted to either the Internal Revenue Service (IRS) and the Nebraska Department of Revenue (Department). The Village is required to withhold Federal taxes, including income tax, Social Security tax, and Medicare tax, as well as State income tax from compensation paid to municipal employees.

Village Clerk payroll amounts for the fiscal year 2023 are shown in the table below:

Check Date	Ck #	Amount
10/4/22	6596	\$ 450.00
11/8/22	6609	453.00
12/6/22	6619	450.00
1/3/23	6631	450.00
2/7/23	6644	454.09
3/7/23	6650	450.00
4/4/23	6662	450.00
5/2/23	6673	450.00
6/6/23	6683	450.00
7/11/23	6693	460.25
8/8/23	6710	450.00
9/12/23	6724	450.00
Total		\$ 5,417.34

According to the Village Clerk and the preparer of the audit waiver request, the Village provides the Village Clerk with an IRS Form 1099 instead of withholding and remitting taxes through either a quarterly Form 941 or an annual Form 944, and then issuing a Form W-2 to that employee.

The requirements for withholding payroll taxes from compensation paid to public officials and employees are explained in various Federal and State publications, as described below.

For Federal income taxes, the “Tax Withholding for Government Workers” information (last updated March 9, 2023), which appears on the IRS website, states the following, as is relevant:

Internal Revenue Code section 3401(c) indicates that an “officer, employee, or elected official” of government is an employee for income tax withholding purposes.

* * * *

The courts generally define “public official” and “public officer” to mean anyone who exercises significant authority pursuant to public laws. This includes any official who administers or enforces public laws whether the public elected the individual or an office appointed them.

(Emphasis added.) Additionally, the “Frequently Asked Questions” section of IRS Publication 963 (Rev. 7-2020), “Federal-State Reference Guide,” states the following, in relevant part, about the employment status of government officials, especially with regard to not only Federal income taxes but also Social Security and Medicare tax withholdings:

For income tax purposes, elected (or elective) and most appointed officials are defined by IRC Section 3401(c) as employees of the public entity they serve (mayors, members of the legislature, county commissioners, city council members and board or commission members). In general, elected and appointed officials will meet the common-law tests to be considered employees. Regardless of the common-law tests, some positions may be defined as employment by state statute. Some fee-basis officials are by law treated as self-employed. An elected or appointed official who is an employee is subject to rules for mandatory Social Security and Medicare unless covered under a Section 218 Agreement or a qualified participant in a retirement system. All officials elected or appointed to their positions after March 31, 1986, are subject to Medicare withholding.

(Emphasis added.) Turning specifically to State income taxes, the “2022 Nebraska Circular EN”, published by the Nebraska Department of Revenue, provides the following, as is relevant:

If you have an office or conduct business in Nebraska and are considered an employer for federal purposes, you must withhold income taxes for Nebraska. This includes payments made to all employees, including nonresidents, for services performed in this state.

(Emphasis added.) Good internal controls require procedures to ensure both the correct classification of employees for tax purposes and the collection of all required Federal and State taxes from such personnel, as appropriate, and the proper remittance thereof. Without such procedures, there is an increased risk for not only failure to comply with State statute and Federal regulations but also the resulting liability of the Village and its employees alike.

We recommend the Village implement procedures to ensure both the correct classification of employees for tax purposes and the collection of all required Federal and State taxes from such personnel, as appropriate, and the proper remittance thereof.

2. Lack of Dual Signatures

The APA obtained the bank statements for the Village’s accounts from its fiscal year 2023 audit waiver request. From these statements, the APA noted that one Village check written during the examination period contained only one signature, as shown below.



State statute requires Village checks to be signed by both the Chairperson of the Board of Trustees (Board) and the Village Clerk. Specifically, Neb. Rev. Stat. § 17-711 (Reissue 2022) provides the following:

All warrants drawn upon the city treasurer of a city of the second class or village treasurer must be signed by the mayor or chairperson of the village board of trustees and countersigned by the city clerk or village clerk, stating the particular fund to which the same is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon such warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for such fund upon which it is drawn and the amount already expended of such fund.

(Emphasis added.) Good internal control and sound accounting practices require procedures to ensure that Village checks contain the statutorily required endorsements. Without such procedures, there is an increased risk for not only failure to comply with State statute but also loss and/or misuse of Village funds.

A similar issue was identified by the APA in a prior review and was disclosed to the Village in the APA's letter dated February 23, 2023, which can be found on the APA's website. However, it does not appear this issue was corrected after the APA's notification.

We recommend the Board implement procedures to require dual signatures, from the Board Chairperson and the Village Clerk, on all Village checks, as required by law.

3. Lack of Claim Purpose

During our comparison of the Village's bank account details to claims approved by the Board, the APA observed meeting minutes dated April 4, 2023, and noted that the claims listed therein lacked descriptions of their respective purposes.

The following is an example of the approved claims listing provided by the Village for April 4, 2023:

CLAIMS:

APRIL 2023

OPPD 482.34 GENERAL 66.00 COMBL 69.58 FRHL 50.83 STREET 295.93
 USPS 144.50 WATER FUND WATER OPERATOR 650.00 RURAL WATER 1043.84 DAVIS
 PLUMBING 703.85 WATER TESTING 30.00
 STATELINE PROPANE COMBL 605.20 FRHL 534.00 MILLER MONROE COMPANY 100.00
 GENERAL BENNETT HTG 385.00 COMBL
 CLERK SALARY GENERAL 200.00 WATER 100.00 STREET 150.00 NE DEPT OF REVENUE
 SALE TAX 305.11 WATER
 WOLFES PRINTING WATER 124.70 GENERAL 400.00 TRANSFER TO WATER FUND
 CEMETERY FUND BARB BROWN 300.00 SECRETARY FEE

Neb. Rev. Stat. § 84-1413(1) (Cum. Supp. 2022) of the Open Meetings Act (Act), which is set out at Neb. Rev. Stat. §§ 84-1407 to 84-1414 (Reissue 2014, Cum. Supp. 2022), requires political subdivisions and other public entities to “keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.” (Emphasis added.)

Additionally, Neb. Rev. Stat. § 19-1102 (Reissue 2022) requires publication of the Board’s official proceedings, which must include, among other things, the purpose of each claim allowed, as follows:

It shall be the duty of each city clerk or village clerk in every city or village having a population of not more than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census to prepare and publish the official proceedings of the city council or village board of trustees within thirty days after any meeting of the city council or village board of trustees. The publication shall be in a legal newspaper in or of general circulation in the city or village, shall set forth a statement of the proceedings of the meeting, and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for the publication shall not exceed the rates provided for in section 23-122.

(Emphasis added.) Good internal control and sound accounting practices require procedures to ensure that the Board’s meeting minutes describe the purpose of each claim allowed.

Without such procedures, there is an increased risk of not only failure to comply with statutory requirements pertaining to the keeping of proper meeting minutes and the publication of the municipality’s “official proceedings” but also a lack of transparency regarding the nature of public expenditures.

A similar issue was identified by the APA in a prior review and was disclosed to the Village in the APA’s letter dated February 23, 2023, which can be found on the APA’s website. However, it does not appear this issue was corrected after the APA’s notification.

We recommend the Board implement procedures to ensure the purpose of each claim allowed is included in both the Board’s meeting minutes and the “official proceedings” required to be published afterwards.

4. Payment of Unapproved Claims

During our comparison of the Village’s bank account details to claims approved by the Board, the APA identified one check, totaling \$30, which was paid but not included on the claims listing to be approved by the Board. Details of the unapproved payment are included in the table below:

Name/Vendor	Check Date	Amount	Check #
Schendel Pest Control	4/4/23	\$ 30.00	6660

Neb. Rev. Stat. § 17-614(1)(a) (Supp. 2023) sets out the proper method for the appropriation or payment of money by the Village, as follows:

All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the city council in a city of the second class or village board of trustees.

(Emphasis added.) Good internal control requires procedures to ensure that all claims are authorized by the Board prior to payment and are adequately documented in the meeting minutes of the month in which they are approved.

Without such procedures, there is an increased risk for the loss or misuse of Village funds.

We recommend the Board implement procedures to ensure all claims are authorized by the Board prior to payment and are adequately documented in the meeting minutes of the month in which they are approved.

* * * * *

The preliminary planning work that resulted in this letter was designed primarily on a test basis and, therefore, may not bring to light all existing weaknesses in the Village's policies or procedures. Nevertheless, our objective is to use the knowledge gained during the performance of that preliminary planning work to make comments and suggestions that we hope will prove useful to the Village.

This communication is intended solely for the information and use of the Village and its management. It is not intended to be, and should not be, used by anyone other than those specified parties. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions, please contact **Dakota Christensen at 402-499-8702 or dakota.christensen@nebraska.gov**.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Avery", with a long horizontal flourish extending to the right.

Mark Avery, CPA
Assistant Deputy Auditor

cc: Robert Aitken, CPA